

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Appeal No. 414-DB of 1999

Date of Decision: July 03, 2008

Bakhshish Singh and others.

... Appellants

Versus

State of Punjab.

... Respondent

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL,
HON'BLE MR. JUSTICE S.D. ANAND.**

Present : Mr.R.S. Cheema, Senior Advocate with
Mr. Jasdev Singh, Advocate,
for the appellants.

Mr. Rajesh Bhardwaj, Deputy Advocate General, Punjab,
for the respondent.

S.D. Anand, J.

The present appeal preferred by Bakhshish Singh, Banta Singh sons of Sham Singh and Bikkar Singh son of Bakhshish Singh son of Sham Singh is directed against their conviction by the learned Trial Judge under Section 302/34 of the Indian Penal Code. Insofar as the appeal preferred by Bakhshish Singh is concerned, it is dismissed as abated in view of the information furnished by the learned State counsel that the aforementioned appellant (Bakhshish

Singh) is dead. The adjudicatory exercise in the present appeal shall, thus, be confined to appellants Banta Singh and Bikkar Singh.

As would be apparent from the FIR itself, the attribution is that only Bakhshish Singh was armed with a spade with which the fatal blow was given to the deceased. Though Banta Singh was armed with a .12 bore gun, there is not even an allegation in the course of the FIR that he used it. The only other role attributed to him that he raised a lalkara requiring his associates to teach a lesson to the deceased for causing the blockade of water. Appellant – Bikkar Singh was armed with a stick which he did not use. The only other role attributed to him that he took Dalip Singh into his grip. Bakhshish Singh and Banta Singh are both sons of Sham Singh. Bikkar Singh is a son of Bakhshish Singh. If Banta Singh and Bikkar Singh had shared the common intention of Bakhshish Singh, there is no reason why they would not have used the weaponry available with them at the time of the impugned occurrence. It is a matter of common observation that in the countryside, there is a tendency to implicate as many members of the opposite party as possible with a view to ensure the lodgment of all the male members of the family in jail. As agriculture is the mainstay of the rural population, the incarceration of the male members of the family disables them from cultivating the land. That is the worst form of punishment which is endeavoured to be given to the enemy by denying to them the means to earn their bread and butter. In that backdrop of the scenario, we

give the benefit of doubt to appellants – Banta Singh and Bikkar Singh.

In the light of the foregoing discussion, the appeal filed by Bakhshish Singh shall stand dismissed as abated. The appeal filed by appellants - Banta Singh and Bikkar Singh shall stand allowed.

(S.D. Anand)
Judge

July 03, 2008
vkd

(Adarsh Kumar Goel)
Judge

Note: Whether to be referred to reporter : Yes/No